

Title 2. California Public Employees' Retirement System

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations.

I. PROPOSED REGULATORY ACTION

In this filing, the proposed amendment to California Code of Regulations sections 565.1, 565.2, 565.3 and addition of section 565.5 will clarify the requirements for submission of payroll and contribution information through the my|CalPERS platform and the method of collecting interest and administrative costs. This proposed regulatory action will enforce employers' compliance with the requirements to submit complete and correct payroll and contribution information in a timely manner.

II. WRITTEN COMMENT PERIOD

Any person interested may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on **September 30, 2011**, and closing on **November 14, 2011, at 5:00 pm**. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; e-mail at James_Croft@calpers.ca.gov; or mailed to the following address:

James Croft, Regulations Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, California 94229-2702
Telephone: (916) 795-9528

III. PUBLIC HEARING

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days prior to the close of the written comment period.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

V. AUTHORITY AND REFERENCE

The Board has authority to take regulatory action pursuant to Government Code section 20121. The proposal interprets and makes specific reference sections 20283, 20535, 20536, 20537, 20572 and 20615, Government Code.

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, employers submit payroll and contribution information to CalPERS via Automated Communication Exchange System (ACES), diskette, tape or reports. Upon implementation of my|CalPERS, employers will use the web-based reporting system to submit payroll and contribution information.

The proposed regulations would make regulatory changes to clarify the requirements for submission of payroll and contribution information through the my|CalPERS platform and the method of collecting interest and administrative costs. This proposal enforces employers' compliance with the requirements to submit complete and correct payroll and contribution information in a timely manner.

The amendment to section 565.1 will require employers to submit payroll and contribution information using the CalPERS reporting system and requires that errors in payroll and contribution information be corrected within 60 calendar days of notice from CalPERS. With the my|CalPERS system, employers will be notified of errors upon submission of the payroll information.

The amendment to section 565.2 will authorize CalPERS to bill an employer for insufficient contributions and clarifies that interest will be charged on amounts due that are not paid within 30 calendar days of the billing notification. The my|CalPERS system can determine the date payroll contributions are received and can assess interest upon failure to submit payroll contributions as due to the system.

The amendment to section 565.3 will replace the reference to "late reporting" with "incomplete or erroneous payroll and contribution information." The amendment further clarifies that the cost assessment

will be billed each month until the posted payroll and contribution information is complete and correct.

The addition of section 565.5 will clarify the method of collecting administrative costs and provide that if an employer fails to pay or dispute an amount due within 30 calendar days of notice, the employer shall be deemed to have agreed with the amount due, and to have consented to collection by CalPERS through deduction from the employer reserve account or by demand for payment.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to the California Public Employees' Retirement Law.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: The proposed regulatory action imposes no mandate on local agencies and school districts.
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action does not impact costs or savings for any state agency.
- C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500, et seq.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action does not impact any federal funding to the state.
- F. ADVERSE ECONOMIC IMPACT: The proposed regulatory action has no significant statewide adverse economic impact directly affecting businesses, including the ability of businesses in California to compete with businesses in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: The CalPERS is not aware of any cost impacts that a

representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- H. IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA: The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no effect.

IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, or would be as effective, and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Sharen Scott
Customer Account Services Division
California Public Employees' Retirement System
P.O. Box 942701
Sacramento, CA 94229-2701
Telephone: (916)795-2558
E-mail: Sharen_Scott@CalPERS.ca.gov

Please direct requests concerning processing of this regulatory action to James Croft, CalPERS Regulations Coordinator, at the address shown in Section II, or (916) 795-9528 (James_Croft@CalPERS.ca.gov.)

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial

Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to James Croft, Regulations Coordinator, at the address shown in Section II.

XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed regulations after the public comment period has closed. It may amend the proposed regulations as modified, if the changes are sufficiently related to the original text, so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.

XIII. One can access the regulatory material regarding this action at CalPERS' website <http://www.calpers.ca.gov/index.jsp?bc=/about/leg-reg-statutes/regulatory/current/home.xml>.